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SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:
Cook	: DECISION REFUSING
Application No. 10/782,712	: STATUS UNDER
Filed: February 18, 2004	: 37 CFR 1.47(b)
Attorney Docket No. LOWM110	:
For: ERGONOMIC DUTY BELT	:

This is in response to the petition under 37 CFR 1.47(b), filed July 19, 2004 (certificate of mailing date July 14, 2004).

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on February 18, 2004 without an executed oath or declaration. Accordingly, on May 14, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing, and replacement drawings.

In response, on July 19, 2004 (certificate of mailing date July 14, 2004), a copy of an assignment signed by Inventor Clifton Cook, giving rights in the invention to Tactical Design Labs, Inc., the surcharge, replacement drawings, the petition fee, and the instant petition were filed. A declaration of facts by Attorney Robert L. Shaver accompanies the petition.

Attorney Shaver states that the complete application was sent to Inventor Cook and that Inventor Cook's attorney informed Attorney Shaver that Inventor Cook would not execute the declaration for patent application.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks items (2) and (4) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. No oath/declaration for patent application has been presented. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47(b) applicant on behalf of Inventor Cook is REQUIRED. See MPEP 409.03(b).

The individual signing the declaration should include information pertaining to him/her. The Office requires a new declaration with the signer's name, title, the address where he/she normally receives mail, his/her residence, and his/her citizenship listed thereon *in addition* to the information pertaining to the inventor. As stated in the MPEP 409.03(b), where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation.

As to item (4), a statement of the non-signing inventor's last known address is missing and is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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Inquiries may be directed to the undersigned at (703)308-6712.

A handwritten signature in black ink, reading "E. Shirene Willis". The signature is written in a cursive, flowing style with a large initial "E".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions